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**PUC PROJECT NO. 51840**

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| **RULEMAKING ESTABLISHING ELECTRIC WEATHERIZATION STANDARDS** | **§ § §** | **PUBLIC UTILITY COMMISSION OF TEXAS** |

**TEXAS-NEW MEXICO POWER COMPANY'S RESPONSE TO COMMISSION STAFF'S DISCUSSION DRAFT AND QUESTIONS FOR COMMENT**

Texas-New Mexico Power Company ("TNMP") submits the following response to the request for comments on the discussion draft and questions issued by the Staff of the Public Utility Commission of Texas ("Commission Staff") on July 19, 2021. TNMP appreciates the opportunity to provide comments on electric weatherization standards for investor-owned transmission and distribution utilities ("TDU") and looks forward to working with the Commission to address the critical issue of emergency preparedness. As a TDU that owns no generation resources, TNMP provides the following comments on the proposed rule and will also address the following questions regarding weatherization of transmission facilities:

1. **What is the availability of statistically reliable weather information from, e.g. the American Society of Heating, Refrigeration and Air Conditioning Engineers; National Weather Service; or other sources for the ERCOT power region? Please share the source of that information.**

2. **Do existing market-based mechanisms provide sufficient opportunity for cost recovery to meet the weather reliability standards proposed in the discussion draft? If not, what cost recovery mechanisms should be included in the proposed rule?**

## I. EXECUTIVE SUMMARY

TNMP appreciates the opportunity to submit these comments, and notes that it will be able to provide further detail and clarity to its comments once specific weatherization standards have been proposed. In the absence of specific standards to review, TNMP is unable to

determine what portion of its system will be affected, as its facilities have been installed over time and are not uniform in their construction or condition. As such, TNMP respectfully requests an opportunity to comment on specific weatherization standards as they are proposed, and also respectfully requests that the Commission consider the following suggested revisions to the current proposed rule:

- Revise the title of the rule from "Weather Emergency Preparedness" to "Extreme Weather Emergency Preparedness" to reflect the severity of weather events the rule is designed to address.

- Under 16 Texas Administrative Code (TAC) § 25.55(b), include a definition for "extreme weather-related outage."

- Add language to the proposed rule to provide regulatory certainty that a transmission service provider's ("TSP") reasonable capital investment costs to meet the Extreme Weather Emergency Preparedness standard are recoverable in transmission cost of service ("TCOS") filings, and its related operating and maintenance expenses may be treated as a regulatory asset.

- Revise Subsection (i) to reflect that a TSP is expected to conform to "good utility practice" as that term is defined under 16 TAC § 25.5. Provide clarification that the good utility practice standard is linked to the geographic location of the infrastructure rather than a single statewide standard.

- Revise Subsection (j) to include a good cause exception to the November 30, 2023 deadline for compliance for transmission facilities inside a substation or switching station to reflect the potential for delays related to equipment shortages and acquisition lead times.

- Revise Subsection (k) to reflect that the annual compliance report include a notarized affidavit sworn by the "appropriate executive level officer" rather than the "chief executive officer" to accommodate differences in corporate structures.

- Revise Subsection (*l*)(1) to require ERCOT to provide TSPs with the opportunity to comment on its proposed TSP weather reliability standard inspection criteria, and to provide TSPs with the final inspection criteria within a reasonable time prior to the commencement of inspections such that each TSP has sufficient time to ensure its transmission system complies with the criteria provided.

- Revise Subsection (*l*)(2) to provide clarity regarding the timeframe envisioned for a "reasonable period to cure the identified deficiencies."

- Revise Subsection (m)(3) to address:

- what is considered a transmission "system" under the rule given the large, non-contiguous nature of certain TSP service territories;

- the number of weather-related outages that would be considered "repeated" weather-related forced interruptions and the types of weather events those interruptions encompass;

- the applicability, scope, and contents of the required assessment of TSP weather preparation measures, plans, procedures, and operations in this proceeding, rather than requiring ERCOT to adopt rules in a future proceeding to address those issues, or alternatively, require ERCOT to consider stakeholder comments on its proposed rules; and

- a TSP's option to contract with a third-party professional engineer to perform the required assessment.

## II. TNMP RESPONSE TO STAFF'S QUESTIONS FOR COMMENT

**Response to Question No. 1:** The Office of the State Climatologist has the potential to be the best option for Texas-specific extreme weather statistical data. TNMP is currently investigating the quality of extreme weather-related statistical data available from the National Weather Service, the National Oceanic and Atmospheric Administration, and other third-party sources.

**Response to Question No. 2:** TNMP supports the recovery of capital investment costs associated with meeting the weather reliability standard through the transmission cost of service ("TCOS") recovery mechanism. To that end, the proposed rule should include specific language authorizing the recovery of costs associated with a TSP's efforts to meet the weather reliability standard in future TCOS filings. TNMP further requests that the proposed rule confirm that associated operating and maintenance expenses may be treated as a regulatory asset.

## III. TNMP COMMENTS ON COMMISSION STAFF'S DISCUSSION DRAFT

TNMP respectfully recommends that the Commission consider the following suggested revisions to the draft rule in order to provide clarity to the TSPs in the ERCOT region with regard to the intent and requirements of the rule.

**A. Revision to Title.**

TNMP recommends the title of the proposed rule, "Weather Emergency Preparedness," be revised to "Extreme Weather Emergency Preparedness" to reflect the extreme weather conditions that the rule is intended to address. The statistical probabilities associated with the weather study envisioned under the rule cover a range of weather scenarios in the 95th, 98th, and 99th percentile for the established weather zones. Consequently, the rule is intended to address isolated extreme weather events that have less than a five percent chance of taking place. The title should reflect the extreme nature of these types of weather events and the severity of the impact they have on Texas' transmission infrastructure. In addition, a new definition of "extreme weather-related outage" should be included in 16 TAC § 25.55(b) to define the term as a forced outage that is the result of an extreme weather event defined by ERCOT as under the 95th to 99th percentile of each of the extreme weather scenarios specified in the weather study ultimately approved by the Commission. These revisions will provide greater clarity with regard to the types of weather events and forced outages the rule is intended to address.

**B. Subsection (i).**

Subsection (i) establishes a weather reliability standard that requires a TSP to maintain weather preparation measures that "reasonably ensure that its transmission system can provide service at the system's applicable rated capabilities as defined by ERCOT under the 98th percentile of each of the extreme weather scenarios specified in the weather study approved by the commission under subsection (c) and to, at a minimum, be in ***conformance with good utility practice***." [emphasis added.] Additional clarity is needed regarding the definition of good utility practice, which is undefined and not capitalized in subsection (i). TNMP suggests that the definition of good utility practice contained in 16 TAC § 25.5(56) be incorporated by reference in

this rule to clarify that it also applies here and that it applies when equipment is placed into service or rebuilt. For example, while there is no legal requirement that a TSP conform to the National Electric Safety Code ("NESC"), it is widely accepted as the industry standard and those standards are applied when a particular piece of equipment is placed into service or rebuilt. This

**C. Subsection (j).**

Subsection (j) states that a TSP's transmission system must meet the weather reliability standard no later than November 30, 2023, except for facilities that are located outside of a substation or switching station. While this deadline would require a TSP to work quickly to inspect its system and perform the necessary upgrades, TNMP agrees this may be a sufficient amount of time for a TSP to bring its transmission system into compliance with the new rule. However, a good cause exception to the rule should be included to reflect that potential equipment shortages or equipment acquisition lead times could result in a TSP exceeding the November 30, 2023 deadline for compliance. These types of equipment shortages and acquisition lead times are outside of the TSP's control and should be taken into account when establishing a deadline for compliance.

**D. Subsection (k).**

Subsection (k) requires that a TSP submit an annual report addressing compliance with the weather reliability standard and that the annual report include a "notarized affidavit sworn to by the ***chief executive officer*** of the provider that its transmission system is in compliance with the weather reliability standard." [emphasis added.] Due to differing corporate structures amongst TSPs, TNMP proposes changing "chief executive officer" to "appropriate executive level officer" to ensure that each TSP has the ability to comply with the rule's requirement and provide an attestation by the appropriate executive level officer.

**E. Subsection (*l*).**

Subsection (*l*)(1) requires ERCOT, exercising the Commission's delegated inspection authority under Tex. Util. Code §§ 14.204 and 14.206, to implement an inspection program to ensure that TSP transmission facilities are in compliance with the weather reliability standard adopted by the Commission. TNMP proposes that the rule require ERCOT to provide TSPs with the opportunity to comment on ERCOT's proposed weather reliability standard inspection criteria. Also, without ERCOT providing notice of the final inspection criteria to the TSPs in advance of any inspection, the TSPs cannot properly prepare for the inspections to ensure the transmission system satisfies the inspection criteria. Therefore, TNMP proposes that the rule specify that ERCOT is required to make the final inspection criteria publicly available within a reasonable time prior to the commencement of inspections to allow sufficient time for the TSPs to prepare and ensure that their transmission facilities are in compliance with the inspection criteria.

Subsection (*l*)(2) requires that once an inspection has been completed, ERCOT is required to issue a report outlining any deficiencies and to provide a TSP a reasonable period to cure the identified deficiencies in the inspection report. The draft rule indicates that the cure period is to be based on what weather preparation measures the TSP reasonably could have been expected to take prior to ERCOT' s inspection, the reliability risk of a forced outage of the facilities, and the complexity of the weather preparation measures needed to cure the deficiencies. TNMP agrees there are certain deficiencies that take longer to cure than others; however, some indication of the generic timeframe to cure envisioned under the rule would be useful. TNMP respectfully recommends that a default timeframe to cure be established in the rule, with exceptions for good cause shown, to provide clarity regarding the timeframe envisioned for a "reasonable period to cure the identified deficiencies." This would allow TSPs to have some indication of the expectation

under the rule while allowing the flexibility to acquire additional time when needed to cure the identified deficiencies in the ERCOT report.

**F. Subsection (m).**

Subsection (m)(3) requires that for weather-related failures to provide service, a "transmission ***system*** that experiences ***repeated*** or major weather-related forced interruptions of service, including forced outages, derates, or maintenance-related outages that result in a failure to comply with the weather reliability standard established by the Commission." [emphasis added.]

Given the large, non-contiguous nature of TNMP's service territory, additional clarity is needed with regard to what is considered a transmission "system" as well as what would be considered "repeated" weather-related forced interruptions of service. For instance, an ice storm outage in West Texas and separate outages caused by a Hurricane Harvey level event along the Texas Gulf Coast would impact two distinct, non-contiguous TNMP service areas comprised of distinct facilities. Whether or not those events would be considered as repeated incidents within the same ***transmission system*** is unclear and potentially unwarranted given that the outages would involve different facilities with different causes separated by extreme distance. TNMP believes that the "repeated" outages addressed by this portion of the rule should instead be directed to a specific facility or a specific piece of equipment. Consequently, TNMP asserts that proposed language of subsection (m)(3) be altered as follows:

> "For a transmission system***'s facility or equipment*** that experiences repeated or major weather-related forced interruptions of service, including forced outages, derates, or maintenance-related outages that result in a failure to comply with the weather reliability standard established by the Commission."

Finally, depending upon the standard ERCOT establishes, there may be other issues that could render this section problematic. TNMP requests that the Commission require ERCOT to

accept and consider stakeholder comments in advance of finalizing any proposed standard with respect to weather-related service interruptions. Additionally, TNMP suggests that the stakeholders have an opportunity to provide the Commission potential amendments to this rule after the standard is determined.

Finally, in the event that a transmission system experiences repeated or major weather-related forced interruptions of service, Subsection (m)(3) requires that a TSP have a qualified professional engineer assess its weather preparation measures, plans, procedures, and operations and submit the assessment to the Commission and ERCOT. TNMP asserts that the option to contract with a third-party professional engineer to conduct the assessment should be included to ensure an unbiased evaluation of whether a TSP's extreme weather preparation measures are adequate to meet the weather reliability standard established in this rulemaking proceeding.

## IV. CONCLUSION

TNMP appreciates the opportunity to respond to Commission Staff's request for comments in this matter and is available to discuss or provide additional information deemed to be helpful during the course of this proceeding.

Respectfully submitted,

*/s/ Scott Seamster*

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